

NEW JERSEY
CEMETERY BOARD

May 8, 2003

 L.H.G.

State of New Jersey
Department of Law and Public Safety
Division of Consumer Affairs
Cemetery Board

**CERTIFIED TO BE
A TRUE COPY**

IN THE MATTER OF

Administrative Action

PHILLIPSBURG CEMETERY

**FINAL ORDER OF
DISCIPLINE**

Certificate of Authority
Number 239

This matter was opened to the New Jersey Cemetery Board following review of information in the Board's files which resulted in the issuance of a Provisional Order of Discipline regarding Phillipsburg Cemetery's failure to file reports and to provide proof of payments into the Maintenance and Preservation Fund. Phillipsburg Cemetery responded to the Provisional Order by filing the delinquent reports and asking the Board to consider its financial condition in assessing penalties. The Board has reviewed the cemetery's submission and now makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent, Phillipsburg Cemetery, holds Certificate of Authority Number 239 issued by the Cemetery Board on September 18, 1972 pursuant to N.J.S.A. 8A:3-9. Respondent has been a New Jersey

Cemetery Company at all times relevant to this matter and is not a municipality.

2. Pursuant to N.J.S.A. 8A:4-5, cemetery companies must make certain deposits into the Cemetery's Maintenance and Preservation Fund based on income generated by sales of lots or graves, and deposits based on resales of lots or graves, number of interments, and size of foundations installed.

3. Pursuant to N.J.S.A. 8A:4-12, each cemetery company that is not a municipality must file an annual report with the Board showing the extent and augmentation of the Maintenance and Preservation Fund for its fiscal year not later than 120 days after the close of its fiscal year.

4. A review of the Board's files demonstrates that as of the date of the Provisional Order of Discipline, the last annual Maintenance and Preservation Fund report was filed for fiscal year 1993.

5. Phillipsburg Cemetery has now filed its Maintenance and Preservation reports for fiscal years 1994 through 2001.

CONCLUSIONS OF LAW

The failure to file annual reports with the New Jersey Cemetery Board and/or the failure to deposit statutorily required sums into the Maintenance and Preservation Fund provide grounds for discipline pursuant to N.J.S.A. 45:1-21 (h). Respondent has now

filed the required reports and has, through its submission, persuaded the Board that the penalty proposed by the Provisional Order of Discipline would pose an extreme hardship to the cemetery in light of its limited income. As such, the Board will modify the penalty to \$100.00.

ACCORDINGLY, IT IS ON THIS 8th DAY OF MAY, 2003,

ORDERED that:

1. Phillipsburg Cemetery shall cease and desist from failing to file its annual Maintenance and Preservation Fund report within 120 days of the close of its fiscal year and from failing to make all statutorily required deposits into the Maintenance and Preservation Fund.

2. Phillipsburg Cemetery shall pay a civil penalty of \$100.00, by certified check or money order payable to the State of New Jersey and forwarded to Susan H. Gartland, Executive Director, New Jersey Cemetery Board, P.O. Box 45036, Newark, New Jersey, 07101.

NEW JERSEY STATE CEMETERY BOARD

By: 
Frank J. DeGeeter, Chair

THE PHILLIPSBURG CEMETERY
IMPROVEMENT ASSOCIATION

116

55-191/212

Date June 24, 2003

Pay to the order of *7th Cemetery Board*
one hundred and no/100

\$ 100.00

Dollars

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